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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09 975,664	10 10 2001	Frank Fellhauer		8610

7590

06 05 2003

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EXAMINER

TON, ANABEL

ART UNIT

PAPER NUMBER

2875

DATE MAILED: 06/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/975,664

Applicant(s)

FELLHAUER, FRANK

Examiner

Anabel M Ton

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- 1 ☐ Certified copies of the priority documents have been received.
- 2 ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
- 3 ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,5,7 are rejected under 35 U.S.C. 102(b) as being anticipated by Haines (1,894,173).

3. The recitation "a forward facing brake light" has not been given any patentable weight because it has been held that a preamble is denied the effect of a limitation where the claim is drawn to a structure and the portion of the claim following the preamble is denied the effect of a limitation where the claim is drawn to a structure and the portion of the claim following the preamble is a self contained description of the structure not depending for completeness upon the introductory clause. *Kropa v. Robie* 88 USPQ 478(CCPA 1951)

4. Haines discloses an external housing, the housing comprising a base, the housing further comprising a top piece fixedly attached to the base, (fig 1) the housing further comprising a lens, the lens comprising four separate segments (9), two larger segments and two smaller segments, the two larger segments being front-mounted in a 'gull-winged' aerodynamic shape, the two smaller segments being side-mounted (9), a pair of compartments, a front compartment (10,15) and a rear compartment, both of the

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compartments being located within the external housing(fig 2), at least three light sources(28,32), a first light source, a second light source, and a third light source, the first light source being located in the front compartment, the second light source and the third light source being located in the rear compartment, and power means for providing power to the light sources(figs 2 and 3); all of the light sources within the external housing would be light bulbs; the rear compartment within the external housing would further comprise a pair of interior reflector compartments, each interior reflector compartment being located adjacent to a smaller segment of the lens, and further wherein at least one light source would be located within each interior reflector compartment(the interior segments 18 are metal therefore reflective)

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negative by the manner in which the invention was made.

6. Claims 2-4,6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haines.

7. Hanes discloses the claimed invention except for reciting that the brake light is forward facing being attached to a location on the vehicle where it would be visible from a location in front of the vehicle. It would have been obvious to one of ordinary skill in the art at the time invention was made to place a brake light attached at a location

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where it would be visible from a location in front of the vehicle since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japiske*, 86 USPQ 70.

- The power means preferably comprises the battery located within the vehicle.
- Although Haines does not recite all the light sources within the external housing would turn on when the brake pedal in the vehicle would be depressed, and further wherein all the light sources within the external housing would turn off when the brake pedal in the vehicle would be released, it would have been obvious to one of ordinary skill in the art at the time the invention was made, that a brake light with multiple functioning lights would inherently turn on when the brake is depressed and off when it is released such as in modern automobiles.
- With regards to all of the light sources within the external housing would be light-emitting diodes, It would have been obvious to one of ordinary skill in the art at the time the invention was made to use an LED as the light source of the device of the instant invention since the examiner takes official notice that the advantages of LED over other light sources (i.e. reduced size, high efficiency, low power consumption, long life, resistance to vibrations, low heat production) are old and well known in the illumination art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anabel M Ton whose telephone number is (703) 305-1084. The examiner can normally be reached on 08:00-16:30.

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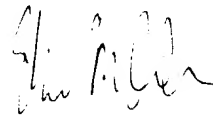
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (703) 305-4939. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Anabel M Ton  
Examiner  
Art Unit 2875

AMT  
May 21, 2003



**THOMAS M. SEMBER**  
**PRIMARY EXAMINER**